

Patent Application No. 09/810,815
Docket No. 00/067NUT

Remarks

Introduction

Status of claims

Claims 1 through 4 and 10 are pending. Claims 1 through 4 and 10 have been rejected.

Claims 1 and 3 have been amended; claim 2 has been deleted. Support for amended Claim 1 can be found in original claim 2. Claim 3 was amended to obviate the 35 U.S.C. § 112 second paragraph rejection and to avoid rejection of this claim due to dependancy from a deleted claim. No new matter has been added.

The Office Action

Claims 1 through 4 and 10 have been examined on the merits.

Rejection under 35 USC § 112

Claim 3 has been rejected because the terms "acesulfame or an other oxathiazinone sweetener" and "cyclamate or an other sulfamate sweetener" were unclear. Claim 3 has been amended and now includes the reference to the generic group of "oxathiazinone sweeteners" and "sulfamate sweeteners". New claim 11, which is dependant from claim 3 has been added to define the species acesulfame within the generic group of oxathiazinone sweeteners and cyclamate within the generic group of sulfamate sweeteners.

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It is deemed that due to this amendment, the rejection under 35 USC § 112 is now moot.

Rejection under 35 USC § 103

Claims 1-4 and 10 have been rejected under 35 USC § 103(a) as being unpatentable over WO 99/04822 in view of Mozda (US Patent No. 4,753,800). It is held that WO 99/04822 teaches 1:1 salts of a sweetener and an unpleasant tasting pharmaceutical. Mozda teaches that nicotine is an unpleasant tasting pharmaceutical. According to the Examiner's position it would, therefore, have been obvious for one skilled in the art to use the nicotine of Mozda in the salts of WO 99/04822.

This rejection is traversed for the following reasons:

The present invention as claimed in amended claim 1 refers to 1:2 salts of nicotine with a sweetener. WO 99/04822 only discloses 1:1 salts of a sweetener and a pharmaceutical. It was not obvious for one skilled in the art to modify the teaching of WO 99/04822 and to make 1:2 salts instead, let alone 1:2 salts with nicotine. First of all, not all pharmaceuticals will form 1:2 salts, and second it could not be expected that 1:2 salts especially those with two different sweeteners would result in a modification of the taste, in particular the perception of sweetness with time. This is explained in the specification at page 6, last paragraph. This paragraph in the specification also emphasizes that this is a critical advantage compared with the 1:1 compounds. Moreover, the inventors of the present invention found that in the 1:1 adducts of nicotine with acesulfame the nicotine taste can still be recognized after a relatively long residence time in the mouth. Surprisingly, however, in the case of the 1:2 or 1:1:1 (nicotine:sweetener-I:sweetener-II) salts this taste is completely eliminated so that even after some minutes no nicotine can be detected (c.F. specification at page 11, ln. 17-23). With these unexpected results the subject matter presently claimed is unobvious over the cited art.

In view of the foregoing amendments and comments, Applicant respectfully requests an early

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Notice of Allowance in the instant application.

Should Examiner Dionne A. WALLS have any questions regarding the present application, the Examiner is invited to contact the undersigned.

Respectfully submitted

By: *K. Schweitzer*

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Klaus Schweitzer
see attached limited recognition

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